

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ERIC RAY PRICE, #1848099

§

VS.

§

CIVIL ACTION NO. 6:20cv210

LORIE DAVIS, ET AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Eric Ray Price, a prisoner currently confined at the Beto Unit within the Texas Department of Criminal Justice (TDCJ), proceeding *pro se* and seeking to proceed *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On April 27, 2020, Judge Love issued a Report (Docket No. 4) recommending that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket No. 2) be denied and that Plaintiff's lawsuit be dismissed with prejudice for the purposes of proceeding *in forma pauperis* pursuant to 28 U.S.C. §1915(g)—but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Specifically, Judge Love found that Plaintiff has accumulated at least three strikes under the Prison Litigation Reform Act by filing at least three previous lawsuits or appeals that were dismissed as frivolous or for the failure to state a claim upon which relief can be granted—before filing this lawsuit in April 2020. A copy of this Report was sent to Plaintiff at his address with an acknowledgment card. Plaintiff has filed timely objections (Docket No. 5).

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See* Fed. R. Civ. P. 72 and 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed finding and recommendation to which objection is made."). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Having reviewed Plaintiff's objections de novo, the Court concludes that the objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. Accordingly, it is


ORDERED that Plaintiff's objections are **OVERRULED** and that the Magistrate Judge's Report (Docket No. 4) is **ADOPTED** as the opinion of the Court. Furthermore, it is

ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket No. 2) is **DENIED**. It is also

ORDERED that Plaintiff's civil rights lawsuit is **DISMISSED WITH PREJUDICE** for purposes of proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915(g) as to the refiling of another *in forma pauperis* lawsuit raising these claims—but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Finally, it is

ORDERED that any and all motions that may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **21st** day of **May, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE